

CONCORDIA UNIVERSITY

Council of the Faculty of Arts and Science

Minutes of the meeting held on Friday, March 10, 1989

- Present: C. Bertrand, Chair; B. Spanos; E. Gardham; C. Foster; J. Appleby; R. Pallen; D. Dicks; S. Ruby; P. Widden; Z. Hamlet; E. Preston; W. Gilsdorf; R. Schmid; G. Auchinachie; C. Levy; M. Barlow; H. deRomer; G. Decarie; R. Perigoe; B. Villata; C. Gray; S. Dubas; D. Salee; C. White; M. Oppenheim; J. Drysdale; M. Giguere; B. Barkman; J. Ryan; M. Brian; H. Shulman; C. Davis; M. Mendell; G. Szamosi; R. Seppanen; E. Budik; S. O'Hara; J. Grundy; M. Sullivan; J. Brown; S. Maguire; F. Fazio; B. Jenkins; S. Letovsky.
- Regrets: D. Acland; J. Gavin; R. Kilgour; S. Hoecker-Drysdale; H. McLachlan.
- Absent: G. Valaskakis; H. McQueen; I. Irvine; W. Byers; M. Dionne; Y-L. Khoury; E. Mourillon; N. deGraff; M. Moser; R. Gossen; B. Leonhardt; Jana Bara.

Documents considered and distributed at the meeting

ASFC 89-2M-A Composition of Advisory Search Committee for Departmental Chairperson

ASFC 89-2M-B Announcement of nominees for the position of Chair, Principal, Director

ASFC 89-2M-C \$100.00 Fine for submitting work-term reports late - charged to students of the Institute for Co-operative Education

ASFC 89-2M-D Graduate Studies Membership on the ASFC

ASFC 89-2M-E Graduate Grading System

1. Call to Order

The meeting was called to order at 1334.

2. Approval of Agenda

89-2-1 It was moved and seconded (Sullivan/Oppenheim) that the Agenda be approved.

Sullivan requested that the Ratification of a student representative, be added to the agenda. The Dean agreed to place this item under Questions and Announcements (Item 6a).

CARRIED (as amended)

4. Approval of Minutes of February 17, 1989

89-2-2 It was moved and seconded (Fazio/Brian) that the minutes of February 17, 1989, be approved.

Dubas remarked that the statement in paragraph 3 on page 7 which read "...gave them the opportunity to improve a grade for a required course" should read "...gave them the opportunity to pass a required course".

CARRIED (as amended)

5. Remarks from the Chair

The Dean stated that he had written to Dr. Giguere, Vice-Rector, Services, regarding the state of classrooms in the Hall Building. Dr. Giguere replied that he had requested Physical Resources to investigate and take appropriate remedial action. The Dean asked members of Council to advise him at a future meeting, if any improvement was noticable.

In response to the issue of the availability of left-handed desks in examination rooms, the Dean wrote to Lynne Campbell, Director of Examinations. She replied that the Scheduling Office will investigate and attempt to correct the situation.

The Dean stated that the Music versus the Sociology Class problem had been solved. Another classroom has been found for the Sociology course.

In response to Council's question regarding the practice of re-admitting "super-failed" students, the Dean stated that he was waiting for a response from the Acting Registrar.

Fazio stated that she had received complaints about the scheduling of courses. She specifically referred to the fact that there are only five minutes between courses that run from 1445 to 1600 and those that start at 1605, which means that students who need to get from one building to another only have five minutes to do so. Vice-Dean Dicks replied that the 1605 time slot was originally designed for graduate seminars, but is now also being used for undergraduate courses. He stated that perhaps the earlier time slots could be changed by five minutes. He agreed to investigate the issue with the Scheduling Office.

Budik questioned the high number of TBAs in the timetable. Vice-Dean Dicks explained that the timetable is printed a long time before most hiring decisions are made. The Dean added that most departments should be able to provide students with a list regarding full-time professors, but decisions regarding part-timers may be more difficult.

Council returned to Item 3 of the Agenda, as Mme. Gaudet had arrived.

3. Proposed Policy on Copyright Compliance

The Dean introduced Mme. B. Gaudet. Mme. Gaudet stated that she would make a few general comments in response to some of the questions raised at the last meeting.

With regard to the scope of the copyright legislation Mme. Gaudet explained that the government intended it to be in two stages: the first stage which has been passed and is of a general nature; and the second stage, which the University is still waiting for and which will deal with more specific issues. It is expected to address the "fair dealing" provision (which the Universities would like modified) and exemptions that have been requested for educational and library users. It is not known when the second stage will take place. It appears that it will not be until next fall, as it is not a high priority for the government at present.

In response to the statement "rather than spending time adjusting policies to fit a situation that is only temporary, it would be better to direct attention to lobbying efforts to obtain exemptions", Mme. Gaudet stated that there were pros and cons to lobbying. The Universities through AUCC lobbied unsuccessfully during the first stage of the legislative process. There are large economic interests at stake and copyright holders are probably more vocal and better organized than the users. Each University, however, can present a brief. This should be done early in the process before the draft legislation is introduced, because it is difficult for the government to retreat when it has taken an official position. The purpose of lobbying would be to obtain specific exemptions. However, the University should realize that it would not get a full exemption, because the government is too committed politically to make concessions. It would be more realistic to ask for specific exemptions, similar to the "fair use" provision that exists in the American legislation to cover teaching, research and scholarship; however, the University must have a good rationale to justify the request. General opposition would not be effective.

In response to the question regarding the personal responsibility of each user, Mme Gaudet clarified that copyright compliance should be the responsibility of the user, but if one is not careful the University could be held responsible for authorizing or condoning violations. If the University implicitly authorizes an action because it does not do anything to prevent it, it could be alleged that the University is condoning illegal practices and thus could be sued. The onus of proof would be on the University, as well as the individual, and the University would have to prove that it exerted its utmost effort to avoid possible infringements.

With regard to the question of photocopying parts of a book that has been out of print for several years, Mme Gaudet stated that permission has to be obtained from the publisher. If the publisher refuses, then there was a way of going around it, by using the Copyright Act, more specifically the provisions of Articles 13 and 14. One can write to the Minister of Education, and the Publisher can be forced to print the work. Article 13 applies only after the death of the author, and for any type of publication. Article 14 applies only to books, but anytime during the lifetime of the author.

In response to the question of whether putting one copy of a publication on reserve for student use (knowing that someone may make multiple copies) would be violating the law, Mme Gaudet stated that this would be a violation of the law, because one would be implicitly authorizing the copying.

In response to Decarie's request regarding a one or two-page statement as to what

the law required and what members of the University could or could not do, Mme. Gaudet confirmed that guidelines will be issued.

Mme. Gaudet stated further that a faculty member can charge students for material that has been copied as long as the publisher's permission has been obtained and the fee has been paid. The Academic Materials fee is another matter which will have to be examined in the near future, as it relates to copyrights.

If a copyright holder refuses to grant permission to copy his/her material then one could invoke Articles 13 or 14 of the Act as stated before.

Levy stated that ten years ago he had prepared one hundred copies of an extract from a textbook, published in France, that was out of print at the time. Only fifty of the copies were used. As he is giving the same course again next year he wondered whether he could use the photocopies now that the book has been published in paperback. Mme. Gaudet responded that he would have to get the publisher's authorization, but since the book is once again available on the market it might be best to simply purchase it.

Shulman wondered when, following the author's death, a publication becomes part of the public domain. Mme. Gaudet replied that according to the Copyright Act, copyrights exist for the life of the author plus fifty years after his/her death.

In the case of a publication of the 17th century, that had been reissued by a publisher ten years ago, Shulman asked if it is the reissuing date that is important or the 17th century authorship. Mme. Gaudet stated that the reissuing date was important, because the publisher probably had the copyright now.

Oppenheim asked if it was illegal to put a book on reserve in the library with the expectation that students might copy it. Mme. Gaudet replied that this was as illegal as placing a photocopy on reserve. The only thing that is authorized by the Act, is "fair dealing" which is very restrictive in that one has to prove that it is for research or private study.

Gilsdorf pointed out that there exists a special problem in Communication Studies with audio visual material, particularly the practice of archiving a copy of a series. Sometimes it never gets accessed, other times it may be picked up five years later because someone is doing a special study of a series. There did not seem to be much on this issue in the current legislation. Gilsdorf wondered whether keeping a copy of a series in the archives constituted a violation of the law. Mme. Gaudet replied that her understanding was that taping off the air is illegal, but as long as it is kept for archival use, and it is not put into circulation and subsequently used by a number of persons, it is defensible, as it could be argued that it had only been used for conservation purposes and not commercial purposes.

White asked for the clarification as to whether it would be illegal to recommend to students to read a book in the library, if one suspected that they might photocopy parts of it. Mme. Gaudet stated that for one student to make a copy for his/her own use is not illegal. It depended on how much of the work was copied and how many copies were made.

With regard to the issue of materials on reserve in the library (be they photocopies or books), that one knows students are likely to copy, Widden asked if the University would be covered by simply putting a warning on the publication. Mme. Gaudet replied that the University would be covered to a certain extent. Such warning may have to be extended through an information campaign. The best solution would be to get a blanket authorization.

Drysdale commented that Mme. Gaudet had indicated that the government was strongly committed to this law and that it would be difficult to get them to change their position and obtain the kind of exemptions the University wants. For lobbying to be effective one needs to understand the basis of the government's commitment. Copyrights do not generally belong to authors, but to publishers, and Drysdale wondered whether this was due to publishers having been more effective in lobbying the government than the academic users.

In response Mme. Gaudet stated that lobbying from the copyright holders had most likely been more effective because these are big companies which have strong economic interests and they have a lot at stake; they were prepared to devote a lot of time and effort to such lobbying. They succeeded in convincing the government that the law was outdated, and that it had to be changed to take technology into consideration. The legislation provides greater protection for the copyright holders, but at the same time fails to provide a mechanism which gives the users better access. This will have to be corrected in the next stage.

The Dean commented that this law appears to be an obvious reaction to modern technology, on the part of both the government and the authors of all kinds of materials.

Szamosi wondered whether recommending to students to read a chapter from a book was legal or illegal. The idea of publishing is to disseminate information. If a teacher cannot recommend a chapter to his/her students, without being afraid of committing a crime, then there was a case for lobbying.

Gray commented that it seemed unfair, that students would not be violating the law if they made a copy for their own use, but a professor would be by making it available to students. He asked if there existed collectives of writers which are required to accept payment for use. In response Mme. Gaudet commented that for a professor to recommend to a student to read a book or an article is not illegal, but "knowing that the students will make multiple copies" could be interpreted as authorizing what only the copyright holder can authorize. In response to the second question, there is no english language equivalent to the UnEQ (Union des ecrivains quebécois).

The Dean thanked Mme. Gaudet for accepting Council's invitation.

The Dean commented that he agreed with Drysdale and that the Steering Committee might want to discuss how Council could address the issue of the lobbying efforts that seem to be required to influence the second stage of the legislation. He agreed with Mme. Gaudet that often the government did not like to back-track, but they have been known to do so on occasion.

a) Ratification of Student Representatives

Arts and Science Faculty Council

Brian Jenkins

RATIFIED

Oppenheim asked whether there was a rule regarding attendance requirements for Council members, and whether a representative who missed several meetings could lose their seat. The Dean responded that there was such a rule but it had never been enforced.

Fazio asked if this rule applied to professors as well.

The Dean responded that the rule applied to all Council members, and that Bill Spanos would verify it.

Fazio stated that students were aware of the rule, and have acted in accordance with it by removing student representatives for reasons of poor attendance.

7. Composition of Advisory Search Committee for the appointment of Chair, Principal, Director

89-2-3 It was moved and seconded (Gilsdorf/O'Hara) "That Departments shall be entitled to have one representative of their non-academic staff, elected by the full-time non-academic staff, as a member of the Advisory Search Committee for Departmental Chairpersons. This will represent an addition to the present composition of the committee."

Seppanen asked if having a part-time faculty member on these Search Committees had ever been considered. O'Hara responded that the question had been raised at Council last year and had been defeated.

Following a discussion on whether "shall be entitled" was clear enough in meaning, the Dean pointed out that adding a non-academic staff member to the Advisory Search Committee was not compulsory; the department can decide what is best for them.

Vote:	In favour	24
	Opposed	1
	Abstentions	11

CARRIED

8. Announcement of nominees for the position of Chair, Principal, Director

89-2-4 It was moved and seconded (Widden/Dicks) that: "Beginning in the 1989-90 academic year, after the close of nominations, the Dean will notify all department members of the nominees for the position of Chair, Principal, Director."

O'Hara asked if this information would also be available to students. The Dean

replied that it would.

White asked if there could be problems with outside applicants. The Dean replied that as a rule everybody in the department knows who the outside candidates are. All nominees or applicants would have to accept that their names will become known, and this was particularly important in the case of outside candidates.

Ruby pointed out that there may be valid reasons for which an individual may want their name kept confidential. She questioned whether one would be violating the applicant's rights by making their name known.

Brian asked if the department would be asked for its input as to which candidate it supports. The Dean stated that this had not been implied.

Pallen pointed out that staff and students are asked to make comments to the Search Committee, and they are allowed to state their preference.

Vote: In favour	34
Opposed	1
Abstentions	4

CARRIED

As the Assistant Director for the Institute of Co-operative Education had not yet arrived, but the Associate Dean of Graduate Studies was present, the Chair asked Council's agreement to move to Item 10, and return to Item 9 later.

10. Graduate Studies Membership on the ASFC

89-2-5 It was moved and seconded (Oppenheim/Preston) that "The Arts and Science Faculty Council add one position, as a voting member, to its composition and that this position be allocated to the Dean of Graduate Studies or delegate."

Speaking privileges were granted to Dr. Baba. The Dean welcomed him to Council.

Baba explained that the rationale for the membership request was that it would facilitate communications between Graduate Studies and the Arts and Science Faculty Council. The quality of decisions that concern graduate studies would improve, and graduate studies would better understand the nuances, richness and flavour of the discussions of Council, and thus enable the BGS to make more informed decisions.

Gilsdorf was opposed to this motion. He stated that he would welcome Dr. Baba as an ex officio member of Council, for purposes of communication, but Council is composed of constituencies from within the Faculty of Arts and Science, and this is where the votes should come from.

Pallen agreed that there were constituencies within Arts and Science that did not have a vote, such as Leisure Studies and Library Studies, and while he would welcome Graduate Studies as an ex officio member, the vote should not be extended.

Baba pointed out that in the past he had participated as a voting member when he

represented the Faculty of Commerce and Administration. The Dean replied that Council still has a voting member from Commerce.

An amendment to the motion was suggested.

- 89-2-6 It was moved and seconded (Oppenheim/Preston) that "The Arts and Science Faculty Council add one position, as a non-voting member, to its composition and that this position be allocated to the Dean of Graduate Studies or delegate."

Maguire asked if Graduate Studies had made the same request at other Faculties. Baba informed Council that a voting membership had been approved by the Faculty of Fine Arts Council, but had been defeated by the Commerce and Administration Council.

Vote on amended motion:	In favour	36
	Opposed	0
	Abstentions	1

CARRIED

9. \$100.00 fine for submitting work-term reports late, charged to students of the Institute for Co-operative Education

- 89-2-7 It was moved and seconded (Gilsdorf/O'Hara) that "The Policy of charging students of the Institute for Co-operative Education a fine of \$ 100.00 for submitting their work-term reports late BE RESCINDED."

Speaking privileges were granted to John Fiset.

Fiset explained that the \$100.00 fine was voted on by the Institute to address the problem of faculty having to mark complicated work-term reports at a late date. A method was needed to ensure that students submitted these reports on time. This was not a situation where one could drop a grade by 10% for late submission, because work-term reports are marked with a pass or fail. Faculty members are not remunerated in anyway and it is they who brought the matter to the Executive Committee of the Co-operative Education Programme. The students were also in favour of this late fee, because those that met the necessary deadlines were upset that some students got unofficial extensions without penalty.

Widden commented that he had been involved in the Co-op programs through Senate, and Council should recognize the amount of work that is involved in monitoring work terms. He did not support the motion because it is important to have some type of control mechanism.

Gilsdorf stated that the motion, reflected the view of the Steering Committee that this type of fine changed the contractual relationship between a faculty member and a student. The matter should have been dealt with in an academic body, and should have been brought to Council. He could accept the idea of a \$15 fine charged by the Registrar's Office for late submissions, because the resources of the University are involved, but to impose this type of fine did not seem right. There were other ways of dealing with this - in other courses students face the possibility of failure if they do not submit their work on time.

White asked why Council was considering this motion if it had not come through Council originally. He wondered how Council would rescind a motion that was approved through other channels.

The Dean explained that the issue was brought to Council because the Steering Committee considered this an academic matter, and not just a financial matter. This fine could set a precedent which would state that departments can fine students for submitting a paper late. This is a principle that the Faculty does not want to support, and Senate should be advised that the Faculty wishes that the motion be rescinded.

Pallen asked if Council or Senate should be considering this. The Dean responded that Council can only refer the matter to Senate if there is a motion. Council should make it clear that it does not support this, and that it considers the issue an academic matter.

Fiset explained that the work-term evaluation of a student is based on two components: the evaluation of the student's supervisor and the evaluation of the work-term report by a faculty member, who determines whether it is written in a scientific format. This is not an academic component in the true sense in that there are no credits given to this component. This was decided by Council years ago, and that was the argument used by the Vice-Rector as well.

Shulman wished to know who received the money, and was informed that it went into general University revenues.

Drysdale commented that the evaluation of the work-term report sounded like an academic evaluation. The student who is late in submitting a work-term report could be given an Incomplete or apply for late completion.

O'Hara commented that there was a principle involved, which was that the whole issue by-passed Council.

89-2-8 It was moved and seconded (O'Hara/Maguire) that the motion be amended to read "The Arts and Science Faculty Council recommends that Senate recommend to the Board of Governors that the policy of..."

With reference to Drysdale's comment, Fiset stated that the "incomplete" grade could not be used, because the student usually receives a pass from his supervisor when the work term itself is completed. It is the report that is not completed; therefore an INC grade on the transcript would not be representative of the whole experience. The fine was felt to be an affordable alternative. Fiset suggested that the motion be withdrawn and tabled at the next meeting after further discussion.

Widden suggested that, as this was a rather complicated problem, the motion should not be considered at this meeting. He recommended that the motion be tabled with a recommendation that the Steering Committee work with members of the Co-op to resolve the problem, so that Council would be dealing with a motion that solved the problem.

The Dean stated that O'Hara's amendment should include something that in principle said that this Council did not support the idea of fining students. The important issue was whether or not, in an academic context, students should be fined for the late submission of work, and it is this principle that Council should address.

Gilsdorf agreed that it was a matter of principle and that Council should move a motion based on principle.

89-2-9 It was moved and seconded (Gilsdorf/Preston) that this issue be tabled and returned to the ASFC Steering Committee for the resolution of the problem on April 6.

Vote on tabling the motion:	Opposed	4
	In favour	26
	Abstentions	5

CARRIED

11. Graduate Grading System

The Dean explained that document ASFC 89-2M-E was sent to the Deans from R. Kavanagh for Council's consideration.

Drysdale recommended that the document be sent to departments and programs before discussing it at Council.

The Dean agreed and stated that he would ensure that all department chairs get a copy.

Oppenheim explained that the two main reasons for this proposal were that:

- 1) Several faculty members found it important to make distinctions between pluses and minuses, particularly for the B grade; and
- 2) in competition for fellowships Concordia graduate students were at a disadvantage when compared to graduate students from other Universities, where the system allowed pluses, particularly A pluses.

The question of whether this new grading system would bring Concordia in line with grading practices elsewhere was also raised.

Vice-Dean Dicks argued that the BGS was somewhat split on the issue. In his opinion the argument focussed too much on the grading system as a reflection of some absolute reality rather than a set of signals that are given to students.

The Dean suggested in order to deal with this issue within the stipulated time delays, it would be best to address the matter at the meeting of Chairs on March 23. If Chairs discussed it at their meeting, the way for a discussion at Council might be paved. Other representatives can bring their feedback to Council on April 6.

The Dean agreed to distribute the document to all Chairs and place the item on the agenda of the April 6 ASFC meeting. He also agreed to write to Dean Szabo and ask him to await Council's response.

Ryan asked if the Dean would include with the submission to the departments, the remarks made at this meeting as a briefing for the departmental discussion. The Dean explained that this would delay the distribution.

12. Other Business

None

13. Next Meeting

The next meeting of Council will be held on Thursday, April 6, 1989, at 1:30 p.m. in AD-131, Loyola Campus.

14. Adjournment

89-2-10

It was moved and seconded (Fazio/Oppenheim) that the meeting be adjourned at 1551 hours.

BS: sb

30-03-89